

Application No. 10/795,901
Filed: March 8, 2004
TC Art Unit: 2617
Confirmation No.: 1538

REMARKS

Claims 1-45 are pending in the present application and remain as filed.

The Examiner has rejected the claims on the basis of nonstatutory double patenting over claims 1-38 of U.S. Pat. No. 6,704,563. Without acceding to the propriety of the rejection, and recognizing that a terminal disclaimer over a patent from which priority is claimed will under normal circumstances have no effect on the term of a pending application once granted, Applicant submits herewith a Terminal Disclaimer over U.S. Pat. No. 6,704,563. The reference to U.S. Pat. No. 6,959,183 in the last sentence of paragraph VIII. of the official action is believed to be inadvertent and was intended to be a reference to U.S. Pat. No. 6,704,563.

The Examiner has also provisionally rejected claims 1-45 on the basis of nonstatutory obviousness-type double patenting over claims 1-20 of co-pending and commonly owned U.S. Pat. Appl. No. 11/258,962. As quoted on page six of the pending official action, claim 18 of the present application pertains, in part, to identifying an account balance associated with a call request, associating a rate plan with the call request, computing a rate schedule based upon at least two rates, and comparing the rate

-2-

WEINGARTEN, SCHURGIN,
GAGNEBIN & LEBOVICI LLP
TEL. (617) 541-2290
FAX. (617) 451-0313

Application No. 10/795,901
Filed: March 8, 2004
TC Art Unit: 2617
Confirmation No.: 1538

schedule to the account balance to determine a duration for which an accrued cost of the communications event is approximately equal to the account balance. In general terms, one could describe this as pertaining to "pre-rating" a call before connection based in part upon account-specific characteristics.

In contrast, claim 14 of U.S. Pat. Appl. No. 11/258,962 pertains, in part, to identifying account information associated with an on-going call, identifying a rate plan according to characteristics of the call, detecting a threshold event associated with the call, and calculating an updated rate schedule according to the account information and the rate plan. In general terms, one could describe this as pertaining to "re-rating" a call in progress based in part upon account-specific characteristics and upon the mid-call occurrence of a threshold event.

Consequently, the general subject matter of the two claims are distinguishable at least on the basis of one pertaining to identifying characteristics of a call not yet established, and the other pertaining to identifying characteristics of a call already in progress. It is thus respectfully submitted that a provisional double-patenting rejection is not supported or justified.

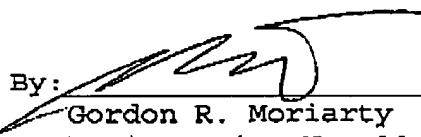
Application No. 10/795,901
Filed: March 8, 2004
TC Art Unit: 2617
Confirmation No.: 1538

In view of the foregoing remarks, the Examiner is respectfully requested to reconsider the rejections and allow the claims. If a teleconference would be of use in forwarding the present application towards allowance, the Examiner is invited to contact Applicant's representative at the telephone number listed below.

Respectfully submitted,

PAUL SENN ET AL.

By:


Gordon R. Moriarty
Registration No. 38,973
Attorney for Applicants

WEINGARTEN, SCHURGIN,
GAGNEBIN & LEBOVICI LLP
Ten Post Office Square
Boston, MA 02109
Telephone: (617) 542-2290
Telecopier: (617) 451-0313

337429.1

- 4 -

WEINGARTEN, SCHURGIN,
GAGNEBIN & LEBOVICI LLP
TEL. (617) 542-2290
FAX. (617) 451-0313

PAGE 6/9 * RCVD AT 6/9/2006 2:42:28 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/42 * DNI:2738300 * CSID:6176950892 * DURATION (mm:ss):02:08